

SUPPORT FOR THE AMENDMENTS

Claims 2-4, 6-10, 20, 21, 27, 28, 31, 43, and 49 were previously canceled.

Claims 5, 29, 33, and 34 are canceled herein.

Claims 1, 16, 22, 30, 32, 39, and 44 have been amended.

The amendment to Claims 1, 16, 22, 30, 39, and 44 are supported by previously pending Claims 4, 21, 28, 31, 43, and 49, respectively. Support for the amendment to Claim 32 is provided by the corresponding claims as previously presented.

No new matter has been added by the present amendment.

REMARKS

Claims 1, 5, 11-19, 22-26, 29, 30, 32-42, and 44-48 are pending in the present application.

At the outset, Applicants wish to thank Examiner Gembeh for the recognition that Claims 38, 42, and 48 are allowable (page 2, lines 17-19 of the Office Action mailed March 13, 2007). Applicants also would like to thank Examiner Gembeh and Examiner Marschel for the helpful and courteous discussion with their undersigned representative on May 11, 2007. During this discussion the amendments set forth herein were discussed. The content of this discussion is reflected in and expanded upon in the following remarks.

Reconsideration of the outstanding rejections is requested.

The rejections of: (a) Claims 1, 5, (15, see Interview Summary dated May 11, 2007), 29, 30, 32, 33, 39, 40, and 44 under 35 U.S.C. §102(b) over Nihei et al; (b) Claims 1, 5, 11-14, 39-41, and 45-47 under 35 U.S.C. §103(a) over Hori et al in view of Nihei et al; (c) Claims 29, 30, and 32-37 under 35 U.S.C. §103(a) over Hori et al taken with Fex et al in view of Nihei et al are obviated by amendment.

These grounds of rejection are predicated on the Examiner's asserted "broadest reasonable interpretation" of the term "combined" on page 1023 of Nihei et al is that AC-7700 and dexamethasone are present in a single composition. Applicants disagree with this assertion and submit that page 1023 of Nihei et al does not actually disclose a single composition in which both AC-7700 and dexamethasone are present. Instead, based on the protocol described therein, it appears that Nihei et al relates to a sequential administration or

administration of AC-7700 to a solid tumor that was already being treated with dexamethasone.

Nonetheless, noting that the Examiner's rejections are based solely on the combination of AC-7700 and dexamethasone, Applicants submit that none of the art of record disclose or suggest the other claimed combinations of AC-7700 with the other identified anti-inflammatory active substances (see Claim 1). Further, Applicants submit that none of the art of record disclose or suggest the other claimed combinations of dexamethasone, an ester of dexamethasone, or a salt of dexamethasone and the other identified tubulin polymerization-inhibitory active substance having anti-tumor activity (see Claim 30).

Accordingly, in order to expedite examination, Applicants have amended the claims so that the specific combination of AC-7700 and dexamethasone does not fall within the scope of the same. In view of the silence of the art of record of the claimed compositions and methods of using the same, Applicants submit that the foregoing rejections are now moot.

Withdrawal of these grounds of rejection is requested.

Finally, with respect to the non-elected method claims, Applicants remind the Examiner that MPEP §821.04 states:

...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Accordingly, upon a finding of allowability of the elected product claims, Applicants respectfully request rejoinder of the withdrawn process claims (Claims 16-19 and 22-26) that depend therefrom.

Applicants submit that the present application is now in condition for allowance.

Early notice to this effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Stephen G. Baxter
Attorney of Record
Registration No. 32,884

Vincent K. Shier, Ph.D.
Registration No. 50,552

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/03)